

# Chapter 1

## Are You a Committee?

This manual provides important information on campaign disclosure rules for major donor committees.

### What is a Major Donor Committee?

A major donor committee is an individual or entity (e.g., corporation, firm, business, or proprietorship) that makes one or more contributions to state or local candidates, ballot measure committees, or other committees (including political parties and PACs) totaling \$10,000 or more in a calendar year. A major donor committee does not receive contributions in order to make contributions, but, instead, uses its own funds to make contributions.

**Examples** *In April, the Alpha Corporation made contributions totaling \$8,000 to various state and local candidates. In September of the same year, the corporation made another \$3,000 contribution to a State Senator's legal defense fund. With the \$3,000 contribution, the corporation qualified as a major donor committee.*

*This year, the CDI Corporation made a \$35,000 contribution to a ballot measure committee. The corporation qualified as a major donor committee.*

**QuickTIP** If an individual or entity makes independent expenditures of \$1,000 or more in a calendar year, the individual or entity may qualify as an "independent expenditure committee." (An "independent expenditure" is a payment for a communication that expressly advocates support of or opposition to a clearly identified candidate or ballot measure, but is not made at the behest of the affected candidate or a committee formed to support or oppose the

measure.) See FPPC Disclosure Manual 6 for Independent Expenditure Committees, for guidance.

**QuickTIP** If contributions totaling \$1,000 or more are received in a calendar year for the purpose of making contributions or independent expenditures in connection with California candidates or ballot measures, refer to the FPPC campaign manuals for "primarily formed recipient committees" or "general purpose recipient committees." When two or more individuals or entities make separate payments totaling \$1,000 or more for a single product or service used to make contributions or independent expenditures (e.g., a newspaper ad or a mailing), they also may qualify as a recipient committee.

### Multi-Purpose Organizations (Including Nonprofit Organizations, and Federal and Out-of-State Political Action Committees)

Some organizations that receive donations or other payments (e.g., membership dues) for purposes other than making political expenditures in California nevertheless do, at times, make political expenditures to support or oppose California state or local candidates or ballot measures. These organizations may be subject to filing campaign statements in California.

A multi-purpose organization is receiving "contributions" if its members or donors make payments to the organization (including dues) and, at the time of making the payments, the donors know or have reason to know that the funds with which their payments will be commingled will be used to make contributions or expenditures to support or oppose California state or local candidates or ballot measures.

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There is a presumption that the donors do **not** have reason to know that all or part of their payments made to the multi-purpose organization will be used for political activities in California **unless** the organization has made expenditures or contributions totaling at least \$1,000 during the current calendar year or any of the immediately preceding four calendar years.

A multi-purpose organization may become a major donor committee if it chooses to make one substantial contribution or expenditure to influence a state or local election and the organization has not made expenditures or contributions totaling at least \$1,000 in the current and past four years. For example, an organization that makes a one-time contribution of \$10,000 or more would qualify as a major donor committee.

**Example** *This year, a federal political action committee made a single \$40,000 contribution to a California state ballot measure committee. The committee had not made previous contributions to California candidates or committees. The federal committee qualified as a major donor committee. (Note: if the federal committee makes a subsequent contribution to a California candidate or committee, it may qualify as a recipient committee. Contact the FPFC for guidance.)*

### Affiliated and Non-Affiliated Committees

There are certain situations when payments made by two or more persons are aggregated and the persons are treated as a single committee for reporting purposes and for purposes of contribution limits.

**QuickTIP** Under the Act, the term “person” includes an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, committee, and association.

Affiliated individuals and entities will qualify as a single committee, if, together, their independent expenditures total \$1,000 or more, or their contributions total \$10,000 or more, in a calendar year. In addition, a major donor committee that files campaign statements disclosing contributions made by affiliates must notify the recipients of its contributions of the name used on the major donor campaign statement under the “Name of Filer.” (See Chapter 4.)

There is an exception for payments made by individuals listed on the same joint checking account. A contribution is attributed, in full, to the individual who signs the check. (See Chapter 2.)

The following payments are aggregated:

- Contributions or independent expenditures made from an individual’s personal funds and from funds he or she directs and controls.
- Contributions or independent expenditures made by two or more entities that are directed and controlled by a majority of the same persons.
- Contributions or independent expenditures made by entities that are majority owned by any person. Contributions and independent expenditures made by the majority owner and all other entities majority owned by that person are aggregated unless the entities act independently in their decisions to make contributions or independent expenditures.

The following are basic examples to provide general guidance. Every case is unique and we encourage you to contact us for advice.

**Examples** *In May, Ellen Gomez made contributions from her personal funds totaling \$6,000 to candidates for county and state offices. In June, she made a \$3,000 independent expenditure from her*

*wholly owned business to oppose a ballot measure and qualified as an independent expenditure committee. Because Ms. Gomez directed and controlled all of the payments, she and her business qualify as a single committee and must disclose her personal contributions as well as the independent expenditures made from her business. (Refer to FPPC Campaign Disclosure Manual 6 for Independent Expenditure Committees.)*

*Judy and Bill Copren are listed on a joint checking account. During a calendar year, Judy signed several checks amounting to \$6,000 to various local candidates. Bill also signed several checks amounting to \$7,000. Judy and Bill do not qualify as a major donor committee. Each individual's contributions are treated separately for purposes of qualifying as a major donor committee.*

*In addition, Judy and Bill are partners in four limited partnerships. Contributions made from each of the limited partnerships must be approved by both Judy and Bill. The four limited partnerships qualify as a single major donor when contributions of \$10,000 or more are made in a calendar year. (Note: the partnership major donor statement would not list Judy and Bill's personal contributions.)*

*Pace Computers contributed a total of \$9,000 to support various legislative candidates. Under the direction of Pace Computers, Global Software, Inc., a company in which Pace Computers has a greater than 50 percent ownership interest, contributes \$7,000 to support local candidates. Because Global Software, Inc. did not act independently, the companies qualify as a single major donor committee.*

*Southwest Telecom has a greater than 50 percent ownership interest in American Telecom. Each entity, entirely on its own and with separate decisionmaking bodies, makes a contribution of \$5,000 to a ballot measure committee. Because Southwest*

*Telecom and American Telecom acted completely independently in their decisions to make the contributions, they do not qualify as a major donor.*



**Quick TIP** If any combination of individuals or entities described above qualifies as a single committee, a single campaign statement must be filed reflecting the name of each individual's or entity's payment. (See Chapter 2 for specific instructions on which name is identified as the name of the filer.)

### **\$5,000 Notification to Potential “Major Donors”**

Candidates and committees that receive one or more contributions totaling \$5,000 or more in a calendar year from an individual or entity must send the contributor written notice that they may have a filing obligation. Failure to receive a notice does not affect the filing obligations and requirements of major donors.

The notice should be similar to the language below:

If your contribution(s) to this committee and to other California state or local committees total(s) \$10,000 or more in a calendar year, California law requires you to file a Major Donor Committee Campaign Statement (Form 461). The deadline and location for filing this statement will depend upon the timing and type of contribution(s) you have made. In addition, once you become a major donor, you are required to file a late contribution report within 24 hours if you make contributions totaling \$1,000 or more to a single candidate, his or her controlled committee, or to a committee primarily formed to support or oppose a candidate or ballot measure during the 16 days before an election in which the candidate or measure is being voted upon or make contributions totaling \$1,000 or more to a state or county

political party committee during the 16 days prior to a state election.

Failure to file campaign statements may result in late filing penalties (\$10/day) and fines (up to \$5,000/violation). For more information, contact the Fair Political Practices Commission toll-free at (866) 275-3772, or refer to their website: [www.fppc.ca.gov](http://www.fppc.ca.gov).

Additionally, if you make contributions of \$50,000 or more in a calendar year in California and some or all of those contributions are to state candidates, committees, or ballot measures, you are required to file your forms electronically with the Secretary of State. For more information on the electronic filing requirements, contact the Secretary of State's office at (916) 653-6224.

### Answering Your Questions

- Q. *Will a candidate or the spouse of a candidate become a major donor by contributing \$10,000 to the candidate's campaign?*
- A. If the contributions are made from community funds, neither the candidate nor the spouse will qualify as a major donor. However, if the candidate's spouse makes contributions from legally separate funds, the spouse will become a major donor.
- Q. *A legislator made a \$40,000 personal contribution to a state ballot measure committee. Does the legislator file as a major donor committee?*
- A. Yes. In addition, if one of the legislator's election committees also makes a contribution to the same ballot measure committee, those contributions must be aggregated together. (See Chapter 4.)
- Q. *May corporations make political contributions in California?*
- A. Yes, the Act does not prohibit this activity. However, corporations and unions are prohibited from contributing to federal campaigns except through their PACs. Also, under federal law, national banks and federally chartered corporations are prohibited from making contributions to state and local campaigns. (See Chapter 2 for additional information.)
- Q. *Must contributions totaling \$10,000 or more be made to a single candidate, committee, or measure in order for the contributor to become a major donor?*
- A. No, if a contributor makes contributions totaling \$10,000 or more to any combination of California state and local candidates, committees, or measures in a calendar year, the contributor meets the definition of major donor.
- Q. *An entity has qualified and filed as a major donor committee in the past three consecutive years, but will not qualify this year. Is it necessary for this entity to terminate its status as a committee to avoid having to file this year?*
- A. No. Major donor committees terminate automatically at the end of the calendar year and are under no obligation to file anything in a year in which they do not engage in enough activity to qualify as a major donor committee.
- Q. *If an individual makes a \$6,000 contribution in the current year and, also in the current year, forgives a \$5,000 campaign loan made in the previous calendar year, will that individual become a major donor?*
- A. Yes.
- Q. *If a person has not qualified as a major donor committee, is a late contribution report required if that person gives a \$1,000 contribution during the late filing period?*

- A. No. The person has no filing obligations until qualifying as a major donor committee.
- Q. *Will an individual qualify as a major donor by making a \$6,000 loan and forgiving that same \$6,000 loan in the same calendar year if the individual has made no other contributions to California committees?*
- A. No. However, if the loan is forgiven in a subsequent calendar year, the forgiveness counts toward qualification as a major donor for that year.

### Authority

The following Government Code sections and Title 2 regulations provide authority for the preceding information in this chapter:

#### Government Code Sections

- 82013    *Committee.*  
82015    *Contribution.*  
82031    *Independent Expenditure.*  
84105    *Notification of Contributors.*  
85311    *Affiliated Entities; Aggregation of Contributions to State Candidates.*

#### Title 2 Regulations

- 18215    *Contribution.*  
18215.1 *Contributions; When Aggregated.*  
18225    *Expenditure.*  
18225.4 *Independent Expenditures; When Aggregated.*  
18225.7 *Made at the Behest of.*  
18427.1 *Notification to Contributors of \$5,000 or More.*  
18428    *Reporting of Contributions and Independent Expenditures Required to be Aggregated.*